

Applicant: Barry W. Cummins
Serial No: 08/611,764
Page 2

REMARKS

The Examiner's rejection of claims 1-5 under 35 U.S.C. §103 as being unpatentable over Cosby is respectfully traversed. Applicant's invention is directed to use as a bactericide, fungicide, viricide, and for treatment of human skin diseases. The Cosby reference is specifically for eradicating any weevil worm, especially the boll weevil. Cosby, in fact, teaches a method of fertilizing and applying the pesticide to the ground in order to eradicate boll weevils. Applicant's invention is not a pesticide, either as to the purpose of use either as to the composition of matter or the method of making the composition. Applicant's invention, as described on page 2, lines 1-12, describes a composition of very low pH which is toxic to bacteria, virus, and certain malignant cells that attack human skin dermatologically. The use of Applicant's invention is found to be helpful as a bactericide for preserving fresh food items, such as fish, for long periods of time without toxically endangering the food product.

The Cosby reference is completely different in its teachings, both as to the purpose of the composition and method or process for its outcome and clearly in the chemistry presented.

Cosby, in Example 1, shows a combination fertilizer and pesticide prepared by mixing together 1400 lbs. of commercial sulfate, ammonium sulfate, with ammonium nitrate, and 33.5 percent nitrogen.

Applicant: Barry W. Cummins
Serial No: 08/611,764
Page 3

There is absolutely no suggestion or teaching, either express or implied, that one could arrive at Applicant's improved composition and method that includes a mixture of sulfuric acid, distilled water, and ammonium sulfate or urea that are treated together in specific amounts, both as to mixing and temperatures, to achieve the final product and process.

Cosby teaches lowering the pH in the soil, which should not be lower than 5.3 and which is maintained above 5.8 during the growing period for cotton. There is no relationship to Applicant's invention, which has a very low pH, but is not toxic to human beings. Finally, Cosby teaches that a combination of strong acid salts of ammonia, such as ammonium sulfate and ammonium nitrate, creates a systemic poison (column 1, lines 3-6).

It is Applicant's position that the Cosby reference does not render the claimed invention (claims 1-5) *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, because Cosby has not remotely suggested Applicant's invention as to its purpose, its composition, or the method of making.

Applicant's invention, both as to the composition and the method, provides a very unique acidic composition that kills bacteria with the ultimate purpose of providing food preservation, such as for fish, which when applied to fish does not render the fish toxic to human beings.

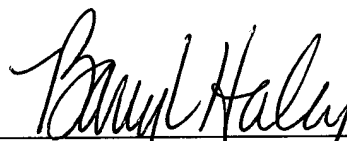
Applicant: Barry W. Cummins
Serial No: 08/611,764
Page 4

The teaching of Applicant's invention is to a nontoxic, low pH solution that will subdue harmful bacteria and virus, while having no ill effect on human beings or the environment. The present invention makes no pesticidal claims.

It is clear that Applicant's invention as claimed in amended claims 1-5 is completely different and is not obvious in view of the Cosby reference.

Any additional charges, including Extensions of Time, please bill our Deposit Account No. 13-1130.

Respectfully submitted,



Barry L. Haley, Reg. No. 25,339
Malin, Haley, DiMaggio & Crosby, P.A.
One East Broward Boulevard
Suite 1609
Fort Lauderdale, Florida 33301
(954) 763-3303